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BEFORE THE STATE AUDITOR AND THE COMMISSIONER OF SECURITIES,
HELENA, MONTANA

IN THE MATTER OF:)	
)	CASE NO.:08-09-05-148-I
SUMMIT BROKERAGE SERVICES, INC.)	
980 N. Federal Highway)	NOTICE OF PROPOSED AGENCY
Boca Raton, FL 33432;)	DISCIPLINARY ACTION AND
)	OPPORTUNITY FOR HEARING
GREGG LORENZO, individually and in)	
his capacity as a broker-dealer salesperson,)	
MICHAEL STANTON, individually and in)	
his capacity as a Summit branch manager,)	
ARNOLD ROSEMAN, individually and in)	
his capacity as CCO for Summit,)	
)	
Respondents.)	

Staff of the Securities Department (Department) of the office of the State Auditor as Commissioner of Securities of the state of Montana (Commissioner), pursuant to the authority of the Securities Act of Montana, Section 30-10-101, et seq., Montana Code Annotated (2003) (MCA), is proposing to the Commissioner that he take specific action against Summit Brokerage Services, Inc. ("Summit"), having its principle place of business at 980 N Federal Highway, Boca Raton, Florida, and Gregg Lorenzo ("Lorenzo"), Michael Stanton ("Stanton"), and Arnold Roseman ("Roseman"), as identified above for violations of the Montana Securities Act and the Montana Insurance Code. The Commissioner has authority to take such action under the provisions of Sections 30-10-102, 30-10-107, 30-10-201, 30-10-301, 30-10-304, 30-10-305, 30-10-309, and 30-10-321, MCA.

In particular, the Department's staff recommend specific action against Summit, Lorenzo, Stanton, and Roseman, including imposition of appropriate fines, appropriate restitution with interest, and revocation or suspension of their respective registrations pursuant to the provisions of the Montana Securities Act.

Service of process is pursuant to § 30-10-107 (8), MCA.

There is probable cause to believe that the following facts, if true, justify and support such specific action

ALLEGATIONS

1. Summit Brokerage Services, Inc., ("Summit") is a Montana registered broker-dealer firm domiciled in Boca Raton, Florida
2. Gregg Lorenzo ("Lorenzo") has been registered as a broker-dealer salesperson representing Summit since September 17, 2003. Lorenzo is employed by Summit at its Staten Island, New York branch office
3. Michael Stanton ("Stanton") is not registered in Montana in the securities industry. Stanton is the branch manager for Summit's Staten Island, New York branch office. Stanton is Lorenzo's manager.
4. Arnold Roseman ("Roseman") is not registered in Montana in the securities industry. Roseman is the Chief Compliance Officer for Summit and he works in the firm's main office in Boca Raton, Florida.
5. On or about June 20, 2005 a complainant hand-delivered a written complaint to the Department alleging Lorenzo caused damages to a joint investment account the complainant and complainant's spouse ("Complainants") had with Summit. During the complainant's visit

with the Department, complainant indicated Complainants had filed a written complaint with Summit on or about December 8, 2004 and that Summit had failed to resolve the matter.

6. The Department investigated the Complainants' allegations using standardized investigation methods, including a letter to Summit requesting certain documents and written statements from Summit and Lorenzo regarding the Complainants' allegations.

7. Summit failed to timely respond to the Department's written request and the Department was required to follow-up the request with a conference call between Summit's CCO, Arnold Roseman, and the Department's legal counsel, Roberta Cross Guns. Subsequently, on or about August 2, 2005, Summit complied with the Department's investigation requests.

8. Based on the findings of the Department's investigation, Complainants opened an investment account with Summit on October 1, 2003. On their Summit new account form they disclose an annual income of between \$50,000 - \$99,000; liquid assets between \$200,000 - \$499,999 and a net worth between \$500,000 - \$999,999. They indicate investment experience of 10 years in stocks/bonds and disclose personal experience trading with E*Trade.

9. The Complainants completed a "Customer Suitability Statement" which verified the above information found on their new account form, disclosed investment objectives of #1 - growth (long-term capital appreciation) and #2 - safety of principal/growth (protection of investment plus growth.) The Complainants disclosed that their investment experience involved a low trading frequency with the average dollar amount of a trade between \$20,000 - \$30,000. Stanton signed the Complainants' "Customer Suitability Statement" as the Principal of the Firm.

10. On or about October 30, 2003, Summit required the Complainants to sign an "Agreement to Purchase" relative to their purchase of 10,000 shares of Wireless Age Communications which indicated these "designated securities are low-priced securities of

companies that have less than \$2 million in net tangible assets and are not listed on a NASDAQ or national securities exchange located in the United States." This was the only "Agreement to Purchase" Summit required the Complainants to sign.

11. The Department's review of the Complainants' account statements, including confirmations, indicates the Complainants deposited \$413,604 into their account at Summit during the period October 2003 through December 2003.

12. During the fourteen (14) month period between October 2003 and January 2005 there were fifty-three (53) transactions in the Complainants' account. Fifty (50) of these trades were solicited, in twelve (12) different securities. The net return on investment in these twelve (12) securities was a loss of to the Complainants of \$189,728.91.

13. During the fourteen (14) month period from October 2003 to January 2005, the Complainants' paid margin loan interest of \$681.87. During this same fourteen (14) month period, the Complainants' margin loan balance at one point exceeded \$236,184.

14. During the fourteen (14) month period from October 2003 to January 2005, the Complainants earned a total of \$9.58 in dividends and interest from their investments with Summit.

15. In 2004 there were aggregate purchases in the Complainants' investment account with Summit totaling \$1,013,097 while the average account equity for the year was \$168,761, resulting in a turnover rate, using the "Looper" method of total annual purchases divided by average annual equity, of 6.0. A turnover rate of 6.0 means the account's average equity was purchased and sold six times during the year.

16. Additionally, during the same fourteen (14) month period, Lorenzo and Summit charged the Complainants commissions of \$84,309, for a cost equity maintenance rate

("CEMR") of 40.1% in 2004, meaning the account had to earn a rate of return of at least 40.1% to have the cost of the account *equal* the income. In other words, the "cost/equity maintenance rate" determines what the rate of return would have to be in an account to overcome the cost of maintaining that account. See Frederick C. Heller, 51 S.E.C. at 276. According to the SEC, trading practices requiring an account to appreciate in excess of 16% in order to have the cost of the account *equal* the income constitutes excessive trading. According to PIABA¹, a CEMR of 4% in an investment account indicates there is a possibility of churning; a CEMR of 8% indicates there is probably of churning; and a CEMR of 12% constitutes excessive trading.

17. The Department's review of the twelve (12) securities offered and sold to the Complainants by Lorenzo indicates Summit acted as principal in ten (10) of the securities. When a broker-dealer firm acts as principle, it is likely any trades in these securities resulted in a higher than average commission rate.

18. The Department's review of the twelve securities offered and sold to the Complainants by Lorenzo indicates the securities recommended by Lorenzo had little financial history or track record upon which to rely. A necessary component of any trading in accounts with the investment priority of growth is that the securities must have a trading history that indicates stability and longevity.

19. Each of the twelve securities Lorenzo offered and sold to the Complainants had a beta ratio higher than 1, relatively little or no historic financial track record and paid no dividend.

¹ PIABA, Public Investors Arbitration Bar Association, whose mission is to promote the interests of the public investor in securities and commodities arbitration by protecting public investors from abuses in the arbitration process, such as those associated with document production and discovery; making securities and commodities arbitration as just and fair as systematically possible; and creating a level playing field for the public investor in securities and commodities arbitration. Courts and arbitrators often rely upon PIABA expertise in cases involving excessive trading.

Nine of these securities were considered low-priced securities, in that the trading value was less than \$5.00. All of these indicators are contrary to the investment objectives indicated by the Complainants on their new account form with Summit.

20. The Department's review of Summit's exception report identified as a "Markup vs Agency" report, a report which identifies "exceptions" with regard to potentially higher commission rates, indicates the Complainants' account appeared on this report during the relevant time period not less than fifteen (15) times, often appearing on the report multiple times in one month.

21. Commissions totaling an aggregate of \$49,667.94 were charged for these fifteen trades. In each case, the "markup vs agency" review sheets have been reviewed and initialed by Summit management.

22. Summit also generates another exception report daily entitled "Stock Report of Trades of \$5.00 and Under." Of the fifty-three (53) trades in the Complainants' account, forty-one (41) of the trades were in securities priced at or below \$5.00, and appeared on this exception report. Trading in these types of stocks is inconsistent with the investment objectives indicated by the Complainants' on their new account form with Summit.

23. Two of the three "unsolicited" trades executed in the Complainants' account were purchases in Wireless Communications, both trades being executed on October 31, 2003. A review of the "Stock Report of Trades of \$5.00 and Under" exception reports for the two month period following the Complainants' purchases indicates Wireless Age Communications was a security that was being bought and sold often by various other clients of Lorenzo in substantially geographically disparate areas, indicating an act, practice and course of business that was inconsistent with "unsolicited" trading.

24. Wireless Age Communications (Symbol WLSA), is listed on the OTC Bulletin Board. Securities listed on the OTC Bulletin Board are not exempt from registration pursuant to §30-10-105 as either an isolated transaction or an "unsolicited". Furthermore, there are no other exemptions available to this security pursuant to the Montana Securities Act. A review of the Department's database indicates Wireless Age Communications has not registered by notification, coordination or qualification with the Department and is, therefore, not properly "blue skied."

25. Summit generates a margin exception report which identifies customers with a margin debit greater than \$10,000. The Complainants appeared on this margin exception report on January 1, 2004 with an equity percentage of 55% relative to their margin loan, and again on January 31, 2004 with an equity percentage of 44%.

26. Summit generates a daily exception report which identifies accounts with over \$25,000 in stock purchases. The Complainants' account appeared on this daily report on eighteen (18) occasions.

27. The Department's review of the trading activity in the Complainants' account indicates Stanton was or should have been aware that the Complainants invested nearly their entire liquid net worth, \$413,604, (as evidenced on their new account form and suitability form) in their Summit account. Stanton was or should have been aware that nearly all of the trading in the Complainants' account was in highly speculative, risky investments that were deemed low-priced, and that such trading was inconsistent with the investment objectives identified by the Complainants. Stanton knew or should have known that fifty (50) of the trades were marked "solicited" and the three trades marked "unsolicited" were more likely than not to be "solicited"

because Lorenzo had a substantial number of other clients in geographically disparate locations buying the same security during the same period.

28. Additionally, Stanton knew or should have known that the Complainants used margin loans, often times in excess of (\$200,000) to leverage their account for the risky trading strategy.

29. A review of the CRD indicates the Complainants' allegation letter dated December 8, 2004 to Summit is not reflected on Lorenzo's disciplinary disclosure history. Roseman, the Chief Compliance Officer of Summit, told the Department in his August 2, 2005 response that the firm's failure to update Lorenzo's Form U-4 was "an inadvertent oversight." As of the date of this Notice of Disciplinary Action, the Complainants' allegation letter sent to Summit is still not reported on the CRD.

Based on the foregoing allegations, the Department submits the following:

CONCLUSIONS OF LAW

1. The State Auditor is the Commissioner of Securities (Commissioner) pursuant to MCA § 30-10-107.

2. The administration of the Securities Act of Montana, MCA § 30-10-101 et seq., is under the supervision and control of the Securities Commissioner. MCA § 30-10-107.

3. The Securities Act of Montana shall be construed to protect investors, persons engaged in securities transactions, and the public interest. MCA § 30-10-102.

4. Lorenzo is registered as a securities salesperson in Montana pursuant to §30-10-201, MCA.

5. Lorenzo violated § 30-10-301 (1) (b), MCA, by misrepresenting the material facts regarding the securities transactions he made for the Complainants' in their Summit account, including, but not limited to:

- a. The transactions were in stocks that were risky, contrary to the Complainants' stated investment objectives;
- b. The trading strategy was excessive in nature and could result in high costs to the Complainants'; and
- c. The true size and extent of the margin loan against the Complainants' account.

6 Lorenzo violated § 30-10-301 (1) (c), MCA by engaging in an act, practice, and course of business that acted as a fraud on the Complainants' when he performed the following acts:

- a. Traded fifty-three (53) stocks that were not suitable for the Complainants' based on their stated investment objectives;
- b. Created a margin loan in the Complainants' account that was excessive;
- c. Traded excessively in the Complainants' account based on their stated investment objectives and the other relevant information revealed in their new account form with Summit;
- d. Used high pressure tactics to cause the unsuitable and excessive trading the Complainants' account; and
- e. Charged excessive commissions to be charged against the Complainants' account

7 Stanton violated § 30-10-301 (1) (b), MCA by providing substantial assistance to Lorenzo so that Lorenzo was able to violate § 30-10-301, MCA, pursuant to §30-10-321, MCA.

8 Stanton violated § 30-10-301 (1) (c), MCA by providing substantial assistance to Lorenzo so that Lorenzo was able to violate § 30-10-301, MCA, pursuant to §30-10-321, MCA

9. Roseman violated § 30-10-301 (1) (b), MCA by providing substantial assistance to Lorenzo so that Lorenzo was able to violate § 30-10-301, MCA, pursuant to §30-10-321, MCA

9. Roseman violated § 30-10-301 (1) (c), MCA by providing substantial assistance to Lorenzo so that Lorenzo was able to violate § 30-10-301, MCA, pursuant to §30-10-321, MCA.

10 Summit is registered as a broker-dealer firm in Montana pursuant to §30-10-201, MCA.

11 Summit violated § 30-10-201 (13) (k), MCA, by failing to reasonably supervise Lorenzo.

12. Summit violated § 30-10-201 (13) (i), MCA by failing to timely respond to the Department's request for information pursuant to its investigation of the Complainants' allegations

13. Summit violated § 30-10-201 (13) (i), MCA by failing to report the Complainants' allegations on the Form U-4 of the NASD's CRD

14. Lorenzo violated § 30-10-201 (13) (g), MCA, and ARM § 6.10.126 (2) (f), when he recommended twelve highly speculative, risky securities on at least fifty (50) occasions with little or no historical financial results or track record to the Complainants', contrary to their investment objectives of long-term growth and safety of principal.

15. Lorenzo violated § 30-10-201 (13) (g), MCA, and ARM § 6.10.126 (2) (f), when he induced trading in the Complainants' account which was excessive in size or frequency in view of their financial resources and character of their account.

16. Lorenzo violated § 30-10-201 (13) (g), MCA, and ARM § 6.10.126 (2) (f), when he induced trading in the Complainants' account which cost them in excess of \$84,300 in commissions and fees during a fifteen (15) month period.

17. Lorenzo violated § 30-10-202, MCA, by selling unregistered securities to Complainants.

18. Summit violated § 30-10-202, MCA, by effecting the sales of unregistered securities to Complainants.

PUBLIC INTEREST

For any and all of the reasons set forth above, it is in the public interest and will protect Montana investors to:

1. Issue a cease and desist order barring Summit, Lorenzo, Stanton, and Roseman from further violations of the Act;
2. Order the suspension of registrations and licenses for Respondents Lorenzo and Summit until resolution of this case.
3. Order Summit to freeze all Summit accounts and assets owned or controlled by Lorenzo until resolution of this matter, including but not limited to money market funds, trading accounts, retirement accounts, commissions and profit sharing plans.
4. Order Summit, Lorenzo, Stanton, and Roseman to pay administrative fines in an amount and upon such terms and conditions as supported by the evidence and determined at hearing of this matter;

5. Order Summit, Lorenzo, Stanton, and Roseman to pay restitution to the Complainants, including the statutory 10% interest from the date of the wrong-doing; and
6. Take such other actions which may be in the public interest and necessary and appropriate for the protection of Montana investors.

RELIEF SOUGHT

1. Order Respondents Summit, Stanton, and Roseman to pay fines not to exceed \$5,000 for each identifiable violation of §30-10-321, MCA
2. Order Respondents Summit, Stanton, and Roseman to pay fines not to exceed \$5,000 for each identifiable violation of § 30-10-201 (13) (k), MCA, pursuant to § 30-10-305 (3), MCA,
3. Order Respondent Summit to pay fines not to exceed \$5,000 for each identifiable violation of §30-10-202, MCA,
4. Order Respondent Lorenzo to pay fines not to exceed \$5,000 for each identifiable violation of §30-10-301 (1) (b), MCA.
5. Order Respondent Lorenzo to pay fines not to exceed \$5,000 for each identifiable violation of §30-10-301 (1) (c). MCA.
6. Order Respondent Lorenzo's registration and license in Montana suspended for violating the provisions of § 30-10-201 (13) (g), MCA;
7. Order Respondent Lorenzo to pay fines not to exceed \$5,000 for each identifiable violation of §30-10-201 (13) (g), MCA, and ARM § 6.10.126 (2) (f), pursuant to § 30-10-305 (3), MCA;
8. Order Respondent Lorenzo to pay fines not to exceed \$5,000 for each identifiable violation of §30-10-202, MCA.

9. Order Respondents to pay restitution to the Complainants, including the statutory 10% interest from the date of the wrong-doing;
10. Order revocation of Respondent Lorenzo's and Respondent Summit's registration and licenses in Montana; and
11. Any other such relief allowed by law or required by justice.

STATEMENT OF RIGHTS

You are entitled to a hearing to respond to this notice, present evidence and arguments on all issues involved in this case. You have a right to be represented by an attorney at any and all stages of this proceeding. You may demand a formal hearing before a hearing examiner appointed by the Commissioner pursuant to the Montana Administrative Procedure Act, sections 2-4-601, MCA, and following, including Section 2-4-631, MCA. If you demand a hearing, you will be given notice of the time, place and the nature of the hearing.

If you want to contest the proposed action under the jurisdiction of the Commissioner, you must advise the Commissioner within fifteen (15) days of the date you receive this notice. You must advise the Commissioner of your intent to contest the proposed action by writing to Roberta Cross Guns, Special Assistant Attorney General, State Auditor's Office, 840 Helena Avenue, Helena, Montana 59601. Your letter must clearly indicate whether you demand a hearing, or whether you waive formal proceedings and, if so, what informal proceedings you prefer for disposition of this case. Pursuant to Section 2-4-603(2), MCA, you may not request to proceed informally if the action could result in suspension, revocation or any other adverse action against a professional license. Should you request a hearing on the matters raised in this Notice, a hearing must be held within 45 days of the request, unless postponed by mutual consent of the parties, pursuant to § 33-1-701 (2), MCA.

Should you request a hearing, you have the right to be accompanied, represented, and advised by counsel. If the counsel you choose has not been admitted to practice law in the state of Montana, he or she must comply with the requirements of Application of American Smelting and Refining Co., (1973), 164 Mont. 139, 520 P.2d 103.

CONTACT WITH SECURITIES COMMISSIONER'S OFFICE

If you have questions or wish to discuss this matter, please contact Roberta Cross Guns, legal counsel for the State Auditor, at 840 Helena Avenue, Helena, MT, 59601, (406)-444-2040 or, within Montana, (800)-332-6148. If an attorney represents you, please make any contacts with this office through your attorney.

POSSIBILITY OF DEFAULT

Failure to give notice or to advise of your demand for a hearing or informal procedure within fifteen (15) days, will result in the entry of a default order imposing the disciplinary sanctions against you and your license, without further notice to you, pursuant to 6.2.101, Administrative Rules of Montana and the Attorney General's Model Rule 10, 13.214.

DATED this 7th day of September 2005

JOHN MORRISON
State Auditor and ex-officio
Commissioner of Securities and Insurance

By

Roberta Cross Guns
Roberta Cross Guns
Special Assistant Attorney General